



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAY 21 2009

REPLY TO THE ATTENTION OF:

R-19J

Thomas W. Easterly, P.E., DEE, QEP  
Commissioner  
Indiana Department of Environmental Management  
100 N. Senate Avenue  
Mail Code 50-01  
Indianapolis, IN 46204-2251

Dear Mr. Easterly:

Thank you for meeting with Region 5 managers on February 19, 2009, to discuss the recent changes at the Indiana Department of Environmental Management (IDEM) and to provide further information. These changes included shifting to an in-program enforcement model, terminating local air agency contracts, and updating IDEM's Compliance and Enforcement Response Policy (CERP).

We appreciate the changes you made to the CERP after our meeting, and your expressed intent that by dropping the qualification "actual," the term "threat" at 6.2.1.1. includes potential as well as actual threats. We also appreciate the continued commitment to meet or exceed EPA's requirements for air programs, as expressed in Daniel Murray's January 13, 2009 letter and your stated commitment that IDEM will continue to meet all its federal commitments for enforcement programs. We recognize that it is IDEM that administers its programs, and that it is to be afforded flexibility in issues like organizational structure and contracting decisions.

We also wanted to let you know about our discussions with local air agencies and with environmental organizations. On March 18, 2009, we met with representatives of the Gary Department of Environmental Affairs, the Evansville Environmental Protection Agency and the Hammond Department of Environmental Management. We described our limited ability to respond to many of their questions regarding direct EPA funding. We also noted that EPA would continue to investigate information submitted by local air agencies that continue to monitor compliance in their jurisdictions. We recognize the contribution the local agencies have made to clean air programs in Indiana, and appreciate IDEM's commitment to maintain air quality protection for Indiana citizens.

On March 20, 2009, we met with representatives of the Hoosier Environmental Council, Improving Kids Environment, Legal Environmental Aid Foundation, the Hoosier Chapter of the Sierra Club, and Save the Dunes. We indicated our willingness to continue to meet with the environmental organizations to discuss our state program reviews, and to share the results of these reviews (including through response to an April 3, 2009 FOIA request).

In both meetings, we committed that in the course of our oversight of State environmental programs, including through the State Review Framework, we will monitor, among other things, how the State implements its federally delegated, authorized and/or approved environmental programs in light of the changes you are implementing. EPA will ensure that the State continues to meet its obligations under the requirements and agreements for those federal programs.

While you have adequately addressed our concerns on the three changes, we do want to highlight concerns regarding intent and transparency raised a number of times by the Indiana stakeholders with whom we met. For example, the local air agencies questioned the lack of notice of contract termination; the environmental groups sought, in general, better notice and input on regulations that sunset, policies and permits. As we have discussed, it is important to implement our programs in a transparent manner, seeking feedback and input from all relevant stakeholders. It is our expectation that you will implement the necessary steps to overcome these perceptions and ensure a high level of communication and openness in the State's programs. If there are ways we can assist in that process, please let us know.

Consistent with Agency practice, copies of this letter will be transmitted to the stakeholders with whom we have met. Please do not hesitate to call me at (312) 886-3000 if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bharat Mathur', with a stylized flourish extending to the right.

Bharat Mathur  
Acting Regional Administrator